

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

PAUL R. DENBESTE,
Appellant,

vs.

JEFFRY G. LOCKE, Trustee,
Defendant.

Case No: C 13-5030 SBA

**ORDER TO SHOW CAUSE RE
DISMISSAL**

On May 7, 2014, Appellee Jeffry G. Locke filed a motion to dismiss Appellant Paul R. Denbeste's putative bankruptcy appeal for lack of prosecution. Dkt. 3. Under Civil Local Rule 7-3(a), an opposition to a motion must be filed within fourteen days of the date the motion was filed, and the reply is due seven days thereafter. To date, Appellant has not filed any response to Defendants' motion which was due on May 21, 2014. Nor has Appellant filed his opening brief on appeal in accordance with Rule 8010 of the Federal Rules of Bankruptcy Procedure and Bankruptcy Local Rule 8010-1.


This Court's Standing Orders warn that the failure to file a response to a motion may be construed as consent to the relief sought in the unopposed motion. Dkt. 14 at 5. Although Appellant is pro se, he remains obligated to follow the same rules as represented parties. See Ghazali, 46 F.3d at 54; King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987). As such, it is well within the discretion of the Court to grant Appellee's motion as unopposed and dismiss the action. See Fed. R. Civ. P. 41(b); Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); see also Greco v. Stubenberg, 859 F.2d 1401, 1404 (9th Cir. 1988) (noting that under Rule 8001, the failure to file a required pleading or brief in a timely manner may be a ground for dismissal of a bankruptcy appeal). Nevertheless, the Court is mindful of its obligation to first consider to less drastic alternatives than dismissal, and will therefore

1 afford Appellant one further opportunity to show cause why the instant action should not be
2 dismissed for lack of prosecution. Accordingly,

3 IT IS HEREBY ORDERED THAT Appellant Paul Denbeste, shall show cause, in
4 writing, why the instant appeal should not be dismissed for failure to file an opening brief
5 and an opposition to Appellee's motion to dismiss. Within ten (10) days of the date this
6 order is filed, Appellant shall file a Certificate to explain why his appeal should or should
7 not be dismissed. The Certificate shall set forth the nature of the cause, its present status,
8 the reason Appellant has not filed his opening brief and a response to Appellee's motion to
9 dismiss, and the expected course of the appeal if the action is not dismissed. FAILURE TO
10 FULLY COMPLY WITH THIS ORDER WILL BE DEEMED SUFFICIENT GROUNDS
11 TO DISMISS THE APPEAL, WITHOUT FURTHER NOTICE.

12 IT IS SO ORDERED.

13 Dated: June 10, 2014


SAUNDRA BROWN ARMSTRONG
United States District Judge